

REPRESENTATIVE HENRY A. WAXMAN'S EFFORTS TO IMPROVE NURSING HOME CONDITIONS

Rep. Waxman has been a champion of nursing home reforms for more than two decades. He believes that our most vulnerable citizens -- the elderly and the disabled who live in nursing homes -- deserve to be treated with dignity and compassion and are entitled to high quality health care. Rep. Waxman has worked to enrich the quality of life for nursing home residents, to strengthen nursing home regulations, and to protect against the impoverishment of spouses of nursing home residents. Rep. Waxman's efforts to improve conditions in nursing homes began early in his congressional career.

1982: Repelling the Threat of Deregulation

In 1982, the Reagan Administration pushed to repeal the federal rules that governed nursing homes. Among the rules being considered for repeal were basic requirements that nursing homes maintain a safe, sanitary environment and respect the privacy and dignity of residents. The Administration's proposed rule would also have reduced the frequency of nursing home inspections, weakened the requirements for corrections of deficiencies, and relinquished responsibility for inspections to a private organization.

Rep. Waxman led the fight to block the Reagan Administration's proposals to repeal federal nursing home protections. He sponsored the National Nursing Home Standards Act of 1982. This bill mandated a moratorium on the Administration's proposed changes in nursing home rules. It also created a federal commission, under the Institute of Medicine (IOM), to examine the adequacy of nursing home regulations and make recommendations for improvement.

Congress ultimately enacted two moratoriums prohibiting the proposed repeal from going into effect. Faced with the strong opposition in the Congress, the Reagan Administration agreed to postpone any substantive changes in federal nursing home regulations until the Institute of Medicine examined and reported to the Congress on nursing home conditions.

1987: The Nursing Home Reform Act

After a two and a half year study, the IOM issued its report "Improving the Quality of Care in Nursing Homes." Rep. Waxman chaired a series of hearings on the report and the widespread abuses in nursing homes documented in the report. The report concluded that "individuals who are admitted receive very inadequate -- sometimes shockingly deficient -- care that is likely to hasten the deterioration of their physical, mental, and emotional health." The report and Rep. Waxman's hearings showed widespread misuse of drugs and physical restraints and appalling failures in care, including prolonged neglect and physical abuse.

Rep. Waxman's hearings led to major reform of federal nursing home standards. Previously, federal nursing home standards had focused primarily on whether facilities had the capacity to deliver required services, not whether services of adequate quality were actually being delivered.

But in 1987, Rep. Waxman wrote broad reform legislation, commonly referred to as the Nursing Home Reform Act, which was enacted into law as part of the Omnibus Budget Reconciliation Act. This legislation greatly strengthened federal nursing home standards. The law placed a new focus on resident rights. It gave nursing home residents the right to choose a personal attending physician, to participate in planning their own care and treatment, and to be free from physical and mental abuse, corporal punishment, involuntary seclusion, and "any physical or chemical restraints imposed for purposes of discipline or convenience." The law also specified that facilities must care for residents in a manner and an environment that promotes the maintenance and enhancement of quality of life. The facilities were also required to provide services so that each resident will attain or maintain the highest practicable physical, mental, and psycho social well-being.

1988: Preventing Spousal Impoverishment

Rep. Waxman was also responsible for securing passage of new provisions to prevent spousal impoverishment. Prior to passage of this law, many older Americans found themselves in the quandary of "spousal impoverishment" -- a situation where spouses were forced to spend down all their assets and were forced into poverty before Medicaid would pay for their husband or wife to receive care in a nursing home.

Rep. Waxman introduced legislation, the Medicaid Community Spouse Protection Amendments, to reduce the risk of financial devastation from nursing home costs. The bill revised the Medicaid program to allow the spouse of a nursing home resident to retain enough of the couple's income and resources to continue to live in the community. This provision helped ensure that spouses were able to live out their lives with independence and dignity. This bill became law in 1988 as part of the Medicare Catastrophic Coverage Act.

1995: Defeating the GOP "Devolution" of Nursing Home Quality

In 1995, the Republican-lead 104th Congress mounted a relentless assault on America's seniors. The most egregious proposal would have dismantled the federal Medicaid program and given each state a fixed amount of money, with which the states would have almost complete freedom to reduce nursing home benefits. In addition, the Republicans sought to repeal the nursing home spousal impoverishment protections and to repeal the critical federal standards for nursing homes written in 1987.

Rep. Waxman, together with the Democratic congressional leadership, played a central role in defeating the proposed repeal of the federal nursing home standards and the block granting of Medicaid. Through their efforts they were able to stop the proposals would have undermined the quality of care for nursing home residents.

1999: Preventing Patient Dumping

Rep. Waxman worked to assure passage of legislation to prohibit “patient dumping.” This legislation, the 1999 Nursing Home Resident Protection Act, prohibits nursing homes which have already accepted a resident from evicting or transferring that resident when the resident qualifies for Medicaid. This legislation is an important step towards ensuring that residents receive quality nursing home care without fear of inappropriate eviction when their assets are depleted and they are forced onto Medicaid.

1999-2000: Enforcing Nursing Home Standards

Most recently, Rep. Waxman has directed his staff to investigate whether nursing homes are meeting federal standards of care. The first report from this investigation shows that many homes in Los Angeles fail to meet the standards Rep. Waxman worked to enact in 1987. Rep. Waxman will seek to enact legislation in 2000 that strengthens enforcement of nursing home standards.